

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the application in view of the following remarks. Claims 1 is amended hereby, and claim 10 is canceled. Upon entry of the amendments, claims 1, 2 and 4-9 remain pending in the application, with claim 1 being an independent claim. It is believed that no additional fees are due for the consideration of this paper. However, if additional fees are due, the Commissioner is authorized to charge such fees to deposit account number 50-3629.

Amendments to the Claims

It is respectfully submitted that the claims as amended above are supported by the application as originally filed in the Patent Office on September 26, 2006, that the amended claim satisfy the written description requirement and the other requirements of 35 U.S.C. § 112, and that no new matter is being added. Claim 1 is amended to more clearly recite that the vertical panel of the connecting element is rigid, and that the display element is part of a rigid support panel. Claim 1 is further amended to recite that the support panel is rigidly coupled to the lower end of the vertical panel and extends the vertical panel downward and forward at a downward angle that is less than 135°. Moreover, claim 1 is amended to more clearly recite that the pivot structure is rigid and that the first end of the pivot structure and the vertical panel are rotatable around only a vertical pivot axis without any other freedom of movement. The amendments to claim 1 are supported by the application as originally filed at least at Figs. 1-4 and the accompanying text at page 3, line 25 through page 7, line 21 that illustrate and describe the support panel 5 and display element 2 as extending downwardly and forwardly from the lower end 4a of the vertical panel 4 at an angle that is less than 135°. Further, the upper end 4a of the vertical panel 4 is connected to a lower end of the vertical bar 9, with the first disk 10 being rotatable relative to the second disk 11 to allow the vertical panel 4 to rotate about a vertical longitudinal pivot axis of the vertical bar 9 without any other freedom of movement.

In view of this, Applicant respectfully submits that the amendments to claim 1 do not present new matter and do not raise new issues, and respectfully requests entry of the present amendments and consideration of the claims as amended and an indication of the allowability of claims 1, 2 and 4-9 at the Examiner's earliest convenience.

Response to Claim Rejections under 35 U.S.C. § 103(a)

Claims 1, 2 and 4-10 were rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 4,776,650 (“Ferenzi”) in view of U.S. Patent No. 4,121,720 (“Hayes”). Applicant respectfully traverses this rejection in view of the present amendments and the following remarks.

To support an obviousness rejection, MPEP §2143.03 requires “all words of a claim to be considered” and MPEP §2141.02 requires consideration of the “[claimed] invention and prior art as a whole.” Further, the Board of Patent Appeals and Interferences recently confirmed that a proper, post-KSR obviousness determination still requires the Office to make “a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art.” *See, In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995). Applicant respectfully submits that the applied references do not teach either a support panel and display element extending downward and forward from a lower end of a vertical panel or a rigid pivot structure as recited in claim 1 as amended, and that the person skilled in the art would not combine the Ferenzi and Hayes patents as proposed in the Office action.

First, the Ferenzi patent does not teach a support panel or display element extending forwardly **and downwardly** from a lower end of a vertical panel. The Office action asserts that the back panel of the enclosure in the Ferenzi patent meets the limitation of a vertical panel. Assuming the characterization is accurate, no component of the cosmetic center 10 extends forward and downward from the lower end of the back panel as recited in claim 1. The bottom wall 16 extends horizontally forwardly from the back panel as shown in the drawings, but does not extend downwardly relative to the back panel. Moreover, the person skilled in the art would not modify the bottom wall 16 to extend downwardly because the items disposed thereon and the lowermost drawer 24 would tend to slide or tip forward and fall out of the cosmetic center 10. The Hayes patent does not teach any panels and, therefore, cannot supply the teaching missing from the Ferenzi patent. Consequently, the proposed combination does not render claim 1 obvious for at least this reason.

Second, the suspension system of the Hayes patent, namely the wall bracket 54 and accompanying chain, is not a rigid pivot structure providing rotation about a vertical pivot axis without any other freedom of movement. The chain from which the apparatus 10 is suspended is not rigid. The links of the chain may move relative to each other when the chain is not in tension, such as when the apparatus 10 is lifted vertically toward the ceiling. The chain also does not limit the movement of the apparatus to just rotation about a vertical pivot axis. As just discussed, the apparatus 10 may be lifted vertically, and it may be moved linearly in other directions when the tension is relieved from the chain. When the apparatus 10 is suspended from the chain, the apparatus is free to sway back and forth about an infinite number of horizontal axes without restriction by the chain. The Ferenzi patent merely describes the cosmetic center 10 as being wall-mounted, which suggests that the cosmetic center 10 is not intended to have any movement once it is mounted on the wall and also does not meet the limitations of the rigid pivot structure. Therefore, because neither reference teaches a rigid pivot structure, claim 1 is not rendered obvious for this additional reason.

Finally, Applicant respectfully submits that a person skilled in the art would not combine the Ferenzi and Hayes references in the manner proposed in the Office action. As discussed above, the chain and the wall bracket 54 of the Hayes patent do not restrict an object suspended therefrom from swinging back and forth. The chain is an acceptable suspension mechanism from the apparatus 10 of the Hayes patent because the apparatus is symmetrical and will tend to hang in the orientation shown in the patent with the cylindrical mirror 30 being essentially vertical. The rings 16 are circular, and the various other elements (fingers 38, chains 42, 46, 46a, 46b, 46, openings 48 and hooks 50) are described as being circumferentially spaced on the apparatus 10 for symmetry. Consequently, the apparatus 10 remains generally in balance below the chain.

The cosmetic center 10 of the Ferenzi patent does not provide a similar level of symmetry and balance. If the chain is attached to the top wall 14 so that center of mass of the cosmetic center 10 causes the enclosure 12 to hang vertically from the chain, opening the doors 30, 32 necessarily shifts the center of mass forward, and likely beyond the front edges of the walls 14-20, thereby causing the enclosure 12 to tip forward. If the chain is connected to the back panel

of the enclosure 12 as asserted on page 3 of the Office action, the center of mass of the cosmetic center 10 will always be forward of the chain, and the enclosure 12 will always tilt forward and will never hang vertically without the application of other forces. With the enclosure 12 tipping forward, products on the shelves 22, bottom walls 16, 40 and drawers 24 will slide or tip forward and fall out of the enclosure 12. For these reasons, a person skilled in the art would not hang the cosmetic center 10 of the Ferenzi patent from a ceiling by the chain of the Hayes patent as asserted in the Office action. Because the person skilled in the art would not combine the teachings of the Ferenzi and Hayes patents, it follows that the references do not render obvious claim 1 and the claims depending therefrom for this additional reason. For these reasons, Applicant respectfully submits that the rejections of the claims should be withdrawn.

CONCLUSION

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of the claims and allowance of the currently pending claims are respectfully requested. Should the Examiner wish to discuss the foregoing or any matter of form in an effort to advance this application toward allowance, Examiner Purol is urged to telephone the undersigned at the indicated number.

Dated: July 25, 2011

Respectfully submitted,

By /Scott E. Baxendale #41,605/
Scott E. Baxendale
Registration No.: 41,605
MILLER, MATTHIAS & HULL LLP
One North Franklin Street
Suite 2350
Chicago, Illinois 60606
(312) 977-9969
Attorney for Applicant